IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:14.12.2006

CORAM

THE HONOURABLE MR. JUSTICE R.REGUPATHI

Crl.R.C.No.1423 of 2006
and
Crl.M.P.No. 1 of 2006

S.Shankar ... Petitioner.
(Defacto Complainant)

Vs

1.The State
rep. by the Sub Inspector of Police,
W-2 Police Station, chennai
Now in charge of All Women Police Station,
Mylapore, Chennai-600 004.
... 1st Respondent/Complainant

2.M.S.Venkataraman
3.M.R.Subramaniam
4.Seethammal
5.M.S.Ramachandran ... Respondents./ Accused

Prayer:- Criminal Revision case against the order passed by the learned IV Metropolitan Magistrate, Saidapet, Chennai, in Crl.M.P.No.3085 of 2006 in C.C.No.3533 of 2001 dated 5.12.2006.

For petitioner : Mr.R.Srinivas
For Respondents : Mr.P.Kumaresan
Additional Public Prosecutor for R1
Mr.Ram for M/s.Ram and Ram
for R2 to R5.

O R D E R

The petitioner is the de facto complainant in C.C.No.3533 of 2001 on the file of the learned IV Metropolitan Magistrate, Saidapet, Chennai. The examination of the witnesses of the prosecution has been almost completed including P.W.6, the Investigating Officer. At that that, a petition has been filed by the prosecution to mark certain documents, which were opposed by the accused, resulting in the order impugned, refusing such permission.

2. The learned counsel for the petitioner submits that document Nos.1 to 18 are communications between the de facto

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complainant and the first accused and they have come into existence even during the course of investigation and the same has been received by P.W.6. Document Nos. 19 and 20 are income tax returns. Documents Nos.21 to 31 are proceedings between A-1 and the petitioner in the competent court. Document Nos.32 to 34 are documents relating to the restraining orders passed by the U.S. Government. Document Nos.35 and 36 are divorce proceedings. In the order impugned, the learned Magistrate has refused to entertain these documents on the ground that some of the documents are xerox copies, not relevant and an attempt has been made to fill up the lacuna at a belated stage. The learned counsel for the petitioner submits that certified copies of the documents are produced and some of the documents are public documents. All the documents are relevant to decide the issue in question and the relevancy of the same can be tested during the course of cross examination, agitated at the time of arguments and decided one way or other by the trial Court. Under such circumstances, sought for setting aside the order passed by the learned Magistrate and prayed for a direction to the learned Magistrate to mark the documents listed in the petition during course of Trial. It is further submitted that for such purpose, witnesses 1, 2 and 6 may be recalled and the learned Magistrate may be directed in this regard. The learned counsel for the petitioner relied on the following judgments to substantiate his contentions:-

1.(1998) 3 Supreme Court Cases 410 (Central Bureau of Investigation -vs- V.C.Shukla and others.
2.(2002) 5 Supreme Court Cases 82 (Central Bureau of Investigation -vs- R.S.Pai and another)
3.(2001) 3 Supreme Court Cases 1 (Bipin Shantilal Panchal -vs- State of Gujarat and another)
4.(1999) 6 Supreme Court Cases 110 (Rajendra Prasad -vs- Narcotic Cell)

3. Per Contra, the learned counsel for the respondents 2 to 4 submits that all the documents listed in the petitions are irrelevant. The petitioner/de facto complainant is introducing these documents only for the purpose of delaying the trial. These documents have not been collected during the course of investigation. In the petition, the reason for marking these documents have not been stated. All these documents are business documents and they do not have any relevance for the purpose of adjudication in the case. These documents were in the custody of the petitioner and would have been marked during the course of the trial. After the cross-examination has been completed, this attempt is being made only for the purpose of filling up the lacuna. It is further submitted that document Nos.1 to 18 are not connected with the case. I.T. Returns and other documents are not relevant for the purpose of adjudication of the case.

4. I have heard both the counsels and perused the materials available on record.

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5. The trial is under progress. The prosecution witnesses have been cross-examined at length. During the course of trial, several documents have been received to substantiate the case of the prosecution. The de facto complainant is of the opinion that the listed documents are relevant and necessary and if these documents are not produced at this juncture, it may cause great prejudice to her. During the course of investigation and trial, if any fresh material comes to light, there cannot be any prohibition in receiving those materials for the purpose of proving or disproving the allegations made by the prosecution. In various Supreme Court judgments including the judgment cited by the counsel for the petitioner, it has been repeatedly held that entry of such material cannot be prevented at the inception. It is the contention of the petitioner that such documents are relevant and absolutely necessary. It is equally opposed on the side of the respondents 2 to 5/accused that it is unnecessary, irrelevant and these documents are produced only for the purpose of filling up the lacuna and protracting the proceedings. I am of the considered opinion that the production of the documents and materials cannot be prevented during the course trial. The relevancy of the same will be decided on conclusion of the trial by the Presiding Officer. Under such circumstances, the learned Magistrate is directed to allow the list of the documents to be marked while recalling P.Ws.1, 2 and 6 in the case and he is also directed to take up the case on day to day basis. The revision petition is ordered accordingly. Consequently, connected Crl.M.P. is closed.

Sd/-
Asst. Registrar.

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Sub Asst. Registrar.

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To

1. The IV Metropolitan Magistrate, Saidapet, Chennai.

2. Do Through The Chief Metropolitan Magistrate,
Egmore, Chennai-8.

3. The Sub Inspector of Police,
W-2 Police Station, chennai
Now in charge of All Women Police Station,
Mylapore, Chennai-600 004.

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4. The Public Prosecutor, High Court, Madras.

1 cc to M/s. Ram and Ram , Advocate, sr. 62460
1 cc to Mr.R.Srinivas, Advocate, Sr. 62425

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MM (CO)
kk 16/12

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